

Rule 520. Vacation of Judgment Order and Judgment

(a) Vacation of Order for Judgment Within 20 Days. When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within 20 days after notice was transmitted may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. Absolute or conditional costs not to exceed \$50 to the other party may be ordered as a prerequisite to that relief.

(b) Vacation of Judgment After 20 Days. A default judgment may be vacated by the judge upon a proper showing by the defendant that: (1) the defendant did not receive a summons before the trial within sufficient time to permit a defense and did not receive notice of the order for default judgment within sufficient time to permit application for relief within 20 days after notice, or (2) upon other good cause shown. Application for relief pursuant to this Rule 520(b) shall be made within a reasonable time after the applicant learns of the existence of the judgment and shall be made by motion in accordance with the procedure governing motions in the district court, except that the motion is filed with the court administrator of conciliation court. The order vacating the judgment shall grant a new trial on the merits and may be conditioned upon payment of absolute or conditional costs not to exceed \$50.

(c) Notice. The court administrator shall promptly transmit a notice of a new trial date to the parties.

(Amended effective July 1, 2015.)

1993 Committee Comment

Rule 520(a) establishes a 20-day time period for obtaining an order to vacate a default judgment order or order for judgment of dismissal. The 20 days is measured from the mailing of the notice of judgment, and the law requires that an additional three days be added to the time period when notice is served by mail. Wilkins v. City of Glencoe, 479 N.W.2d 430 (Minn. App. 1992) (construing Minn. R. Civ. P. 6.05). Computing the deadline can be difficult and confusing for lay persons, and Rule 514 attempts to alleviate this problem by requiring the court administrator to perform the computation and specify the resulting date in the notice of order for judgment, taking into consideration applicable rules, including Rule 503 of these rules and Minn. R. Civ. P. 6.05.

Rule 520(a) authorizes an informal, ex parte proceeding (involving appearance of one party only), which typically includes the presentation of an affidavit establishing lack of notice, mistake, inadvertence or excusable neglect as the cause of that party's failure to appear. In contrast, Rule 520(b) requires compliance with the formal requirements for making a motion in the district court. See Minn. R. Civ. P. 4.02, 5.02, 6.05; Minn. Gen. R. Prac. for the District Courts 115.01, 115.02, 115.04 to 115.10. Forms and instructions are available from the conciliation court.